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DOCUMENTS

1. Alexander Hamilton's Notes in the Federal Convention of 1787.

IN the Hamilton Papers, now in the Library of Congress, I found some folio sheets containing rough notes in Hamilton's writing, but without date, place, or descriptive heading. A penciled note on one of the sheets, evidently written at a later day, led me to believe that the lines might be some notes of debates in the Convention of 1787 for framing the Constitution, and a little study enabled me to find a corresponding note in the Madison notes. It was then a simple matter to spell out the Hamilton matter by date and speaker, and the result is now published. Fragmentary as the notes are, they add something to the known record of the debates, and possess a general as well as an individual value.

The general interest lies in this: that they outline speeches not recorded by Madison, such as Madison's own remarks on June 6; and they add to the notes made by Madison in a number of instances. Further, they offer a test of the accuracy of Madison's pen, and in only one instance do they seem to point to an error. In reporting Gerry's remarks on June 8, Madison made him say the "New States too having separate views from the old States will never come into the Union". The statement would seem to be too strong to express Gerry's meaning, for the legislation on the Northwest Territory and experiences with the western country would modify if not negative the remark. The version given by Hamilton is more correct: "New States will arise which cannot be controuled".

The personal interest is greater. Few men were better equipped than Madison to take notes, for he had long been a careful student of government, and in his closet and his experience in state and Continental legislature had recognized the great evils of the old Confederation and the crying need of a surrender by the states of some of their powers, at least sufficient to create a self-supporting central government. The notes of his researches on federative systems long passed as Washington's, because a copy in Washington's manuscript happened to be found before the Madison original came to light. Yet Madison's studies had produced almost a colorless attitude of mind, in which his learning threatened to neutralize his energy in urging definite reforms for definite evils. His influence in the Convention was small, in spite of the many times he took part in

the debates; and it was exerted rather through others than through himself. This attitude made him the best possible recorder of the debates, as he was in a receptive frame of mind, not tied fast to one or a small number of propositions, but ready to study what others had to propose. The result is to be seen in his "notes", which could only be surpassed in merit by a full record of the proceedings.

Hamilton's experience had been different. His service at headquarters during the most trying years of the Revolution had given him a grasp of the inherent weakness of the Confederation that was improved by his service in the Continental Congress. He approached the question of reform from a more practical side than that of Madison, and this made him the more intent upon a special reform to meet the difficulties he had felt in field and in Congress. Hence his leaning to monarchy, a position that could not be acceptable to the Convention any more than it could be to the people of the United States. His notes were taken on the days when the central government was under discussion, and he has added "notes" and "remarks" that clearly indicate his own ideas, something that a really good reporter, like Madison, would not have done. The personal element is therefore stronger in these few notes than in the whole of Madison's record.

WORTHINGTON CHAUNCEY FORD.

I. NOTES FOR JUNE 1, 1787.

[HAMILTON.]

[MADISON.¹]

1 — The way to prevent a majority from having an interest to oppress the minority is to enlarge the sphere.

2 — Elective Monarchies turbulent and unhappy —

Men unwilling to admit so decided a superiority of merit in an individual as to accede to his appointment to so preeminent a station —

If several are admitted as there will be many competitors of equal merit they may be all included — contention prevented — and the republican genius consulted —

If [Executive Power] large, we shall have the Evils of Elective Monarchies (Charles R. King, *The Life and Correspondence of Rufus King*, I, 588.)

I Situation of this Country peculiar —

¹ With the exception of the first, these excerpts are from *The Writings of James Madison*, edited by Gaillard Hunt, Volume III.

II Taught the people an aversion to Monarchy —

III All their constitutions opposed to it —

IV — Fixed character of the people opposed to it —

V — If proposed will prevent a fair discussion of the plan.

View [or Voice]
of America.
Safety to liberty
the great object —

VI — Why cannot three execute?

— Great exertions only requisite on particular occasions

— Legislature may appoint a dictator when necessary —

— Seeds of destruction — Slaves — [former Continental army struck out] might be safely enlisted —

— May appoint men devoted to them — and even bribe the legislature by offices —

— Chief Magistrate must be free from impeachment

Wilson —

extent — manners —

Confederated republic unites advantages and banishes disadvantages of other kinds of governments —

rendering the executive ineligible an infringement of the right of election —

Bedford —

peculiar talents requisite for executive, therefore ought to be opportunity of ascertaining his talents — therefore frequent change —

Princ 1 The further men are from the ultimate point of importance the readier they will be [to] concur in a change —

2 Civilization approximates the different species of governments —

3 — Vigour is the result of several principles — Activity wisdom — confidence —

4 — Extent of limits will occasion the non attendance of remote members and tend to throw the government into the hands of the Country near the seat of government — a reason for strengthening the upper branch and multiplying the Inducements to attendance —

M^r Bedford was strongly opposed to so long a term as seven years. He begged the Committee to consider what the situation of the Country would be, in case the first magistrate should be saddled on it for such a period and it should be found on trial that he did not possess the qualifications ascribed to him, or should lose them after his appointment. (*Madison*, III, 63-64.)

II. NOTES FOR JUNE 6, 7, AND 8, 1787.

Sent :

A free government to be preferred to an absolute monarchy not because of the occasional violations of *liberty* or *property* but because of the tendency of the Free Government to interest the passions of the community in its favour beget public spirit and public confidence —

Re : When public mind is prepared to adopt the present plan they will outgo our proposition — They will never part with Sovereignty of the state till they are tired [?] of the state governments —

M^r Pinkney. If Legislatures do not partake in the appointment of they will be more jealous

Pinckney — Elections by the state legislatures will be better than those by the people —

Principle — Danger that the Executive by too frequent communication with the judicial may corrupt it — They may learn to enter into his passions —

Note — At the period which terminates the duration of the Executive there will be always an awful crisis — in the National situation.

Note. The arguments to prove that a negative would not be used would go so far as to prove that the revisionary power would not be exercised.

M^r Mason — The purse and sword will be in the hands of the [*executive* struck out] — legislature.

1 One great defect of our Governments are that they do not present objects sufficiently interesting to the human mind.

1 — A reason for leaving little or nothing to the state legislatures

The State Legislatures also he said would be more jealous, and more ready to thwart the National Gov^t, if excluded from a participation in it. (P. 107.)

He differed from gentlemen who thought that a choice by the people w^d be a better guard agst bad measures, than by the Legislatures. (*Ibid.*)

The purse and the sword ought never to get into the same hands whether Legislative or Executive. (P. 110.)

will be that as their objects are diminished they will be worse composed — Proper men will be less inclined to participate in them —

[June 7, 1787.]

Dickinson

11 — He would have the state legislatures elect senators, because he would bring into the general government the sense of the state Governments etc

11 — because the most respectable choices would be made —

Note — Separate states may give stronger organs to their governments and engage more the good will of Ind: — while Genl Gov^t

~~we~~ Consider the Principle of Rivalship by excluding the state Legislatures —

M^r Dickinson had two reasons for his motion. 1, because the sense of the States would be better collected through their Governments; than immediately from the people at large; 2. because he wished the Senate to consist of the most distinguished characters . . . and he thought such characters more likely to be selected by the State Legislatures, than in any other mode. (P. 112.)

M^r Pinkney thought the 2^d branch ought to be permanent and independent; and that the members of it w^d be rendered more so by receiving their appointment from the State Legislatures. This mode w^d avoid the rivalships and discontents incident to the election by districts. (P. 119.)

Mason.

General government could not know how to make laws for every part — such as respect *agriculture* etc.

= particular governments would have *no defensive* power unless let into the constitution as a Constituent part — —

It is impossible for one power to pervade the extreme parts of the U. S. so as to carry equal justice to them. (P. 120.)

The State Legislatures also ought to have some means of defending themselves agst encroachments of the Nat^l Gov^t . . . And what better means can we provide than the giving them some share in, or rather to make them a constituent part of, the Nat^l Establishment. (*Ibid.*)

[June 8, 1787.]

Pinkney — For general Negative —

He urged that such a universality of the power [to negative all laws which they sh^d judge to be improper] was indispensably necessary to render it effectual. (P. 121.)

Gerry — Is for a negative on paper emissions —

New States will arise which cannot be controuled — and may outweigh and controul —

Wilson — Foreign influence may infect certain corners of confederacy what ought to be restrained —

Union basis of our oppos and Ind[e]pendence]:

He had no objection to authorize a negative to paper money and similar measures. (P. 123.)

New States too having separate views from the old States will never come into the Union. They may even be under some foreign influence. (*Ibid.*)

III. NOTES FOR JUNE 6 AND 8, 1787.

PRINCIPLES

I — Human mind fond of Compromise —

Maddisons Theory —

Two principles upon which republics ought to be constructed —

I that they have such extent as to render combinations on the ground of Interest difficult —

II By a process of election calculated to refine the representation of the People —

Answer — There is truth in both these principles but they do not conclude so strongly as he supposes —

— The Assembly when chosen will meet in one room if they are drawn from half the globe — and will be liable to all the passions of popular assemblies.

If more *minute links* are wanting others will supply them — Distinctions of Eastern middle and Southern states will come into view; between commercial and non commercial states — Imaginary lines will influence etc Human mind prone to limit its view by near and local objects —

Paper money is capable of giving a general impulse — It is easy to conceive a popular sentiment pervading the E. states —

Observ: large districts less liable to be influenced by factious demagogues than small —

Note — This is in some degree true but not so generally as may be supposed — Frequently small portions of the large districts carry elections — An influential demagogue will give an impulse to the whole — Demagogues are not always *inconsiderable* persons — Patricians were frequently demagogues — Characters are less known and a less active interest taken in them —

[June 8, 1787.]

Bedford —

Arithmetical calculation of proportional influence in General Government —

Pensyl. and *Delaware* may have rivalry in commerce — and influence of *Pens* — sacrifice *delaware*

If there be a negative in G G — yet if a law can pass through all the forms of S — C it will require force to abrogate it.

Butler — Will a man throw afloat his property and confide it to a government a thousand *miles distant*?

In this case Delaware would have about 1/90 for its share in the General Councils, whilst P^a and V^a would possess 1/3 of the whole. Is there no difference of interests, no rivalry of commerce, of manufactures? Will not these large States crush the small ones whenever they stand in the way of their ambitious or interested views . . . if a State does not obey the law of the new System, must not force be resorted to as the only ultimate remedy. (Pp. 125-126.)

IV. NOTES FOR JUNE 16 AND 19, 1787.

M^r Lansing — N[ew] S[y]stem — proposes to draw representation from the whole body of people, without regard to S[tate] sovereignties —

Subs: proposes to preserve the State Sovereignties —

Powers — Different Legislatures had a different object —

— Revise the Confederation —

Ind. States cannot be supposed to be willing to annihilate the States —

State of New York would not have agreed to send members on this ground —

He was decidedly of opinion that the power of the Convention was restrained to amendments of a federal nature, and having for their basis the Confederacy in being. (P. 171.)

N. York would never have concurred in sending deputies to the Convention, if she had supposed the deliberations were to turn on a consolidation of the States, and a National Government. (Pp. 171-172.)

In vain to devise systems however good which will not be adopted —

If convulsions happen nothing we can do will give them a direction —

Legislatures cannot be expected to make such a sacrifice —

The wisest men in forming a system from theory apt to be mistaken —

The present national government has no precedent or experience to support it —

General opinion that certain additional powers ought to be given to Congress —

Mr Patterson — 1 — plan accords with powers

2 — accords with sentiments of the People —

If Confederation radically defective we ought to return to our states and tell them so —

Comes not here to sport sentiments of his own but to speak the sense of his Constituents —

— States treat [ed] as equal —

Present Compact gives one *Vote* to each state.

alterations are to be made by Congress and all the Legislatures —

All parties to a Contract must assent to its dissolution —

States collectively have advantages in which the smaller states do not participate — therefore individual rules do not apply —

— Force of government will not depend on proportion of representation — but on

Quantity of power —

— Check not necessary in a ge[ne]ral government of communities — but

in an individual state spirit of faction is to be checked —

How have Congress hitherto conducted themselves?

The People approve of Congress but think they have not powers enough —

And it is in vain to propose what will not accord with these [sentiments of the people]. (P. 172.)

The Scheme is itself totally novel. There is no parallel to it to be found. (*Ibid.*)

. . . an augmentation of the powers of Congress will be readily approved by them. (*Ibid.*)

He preferred it because it accorded 1. with the powers of the Convention, 2 with the sentiments of the people. If the confederacy was radically wrong, let us return to our States, and obtain larger powers, not assume them ourselves. I came here not to speak my own sentiments, but the sentiments of those who sent me. (Pp. 172-173.)

. . . 5th art: of Confederation giving each State a vote — and the 13th declaring that no alteration shall be made without unanimous consent. . . . What is unanimously done, must be unanimously undone. (P. 173.)

Its efficacy will depend on the quantum of power collected, not on its being drawn from the States, or from the individuals. (P. 174.)

But the reason of the precaution [a check] is not applicable to this case. Within a particular State, where party heats prevail, such a check may be necessary. (*Ibid.*)

Do the people at large complain of Cong^d? No, what they wish is that Cong^d may have more

power. . . . With proper powers
Cong^s will act with more energy
and wisdom than the proposed
Nat^l Legislature; being fewer in
number. (Pp. 174-175.)

— body constituted like Con-
gress from the *fewness* of their
numbers more wisdom and en-
ergy —

than the complicated system of
Virginia —

— Expence enormous —

180 — commons

90 — senators

270 —

Wilson—Points of Disagreement—

V — N J —

1 2 or three One branch —
branches —

2 Derives au-
thority from from states —
People —

3 Proportion of Equality —
suffrage —

4 — Single Ex-
ecutive — Plural —

5 — Majority to Minority to
govern — govern —

6 — Legislate in partial ob-
all matters jects —
of general
Concern —

7 Negative — None —

8 Removeable on application
by impeach- of majority of
ment — Executives.

9—Qualified Nega-
tive by Ex- None
ecutive —

10 — Inf[erior].
tribu- None —
nals —

11 — Orig[inal]:
Jurisdic-
tion in all
cases of None —
Nat:
Rev —

12. National Gov- to be ratified
ernment to by Legisla-
be ratified tures —
by People —

. . . You have 270, coming
once at least a year from the most
distant as well as the most central
parts of the republic . . . can so
expensive a System be seriously
thought of? (P. 175.)

See pp. 175-176.

— Empowered to propose every thing P. 176.

to conclude nothing—

— Does not think state governments the idols of the people — *Ibid.*

Thinks a competent national government will be a favourite of the people —

Complaints from every part of United States that the purposes of government cannot be answered—

— In constituting a government — not merely necessary to give proper powers — but to give them to proper hands —

Two reasons against giving additional powers to Congress — *Ibid.*

— First it does not stand on the authority of the people —

Second — It is a single branch —

Inequality — the poison of all governments —

— Lord Chesterfield speaks of a Commission to be obtained for a member of a small province — P. 178.

Pinkney — P. 179.

Mr Elsworth — *Ibid.*

Mr Randolp[h] — Spirit of the People in favour of the Virginian scheme —

We have powers ; but if we had not we ought not to scruple — Mr Randolph, was not scrupulous on the point of power. (*Ibid.*)

[June 19, 1787.]

Maddison — Breach of compact in one article releases the whole —

A breach of the fundamental principles of the compact by a part of the Society would certainly absolve the other part from their obligations to it. (P. 210.)

Treaties may still be violated by the states under the Jersey plan —

The proposed amendment to it [the existing Confederacy] does not supply the omission. (P. 212.)

appellate jurisdiction not sufficient because second trial cannot be had under it —

. . . of what avail c^d an appellate tribunal be, after an acquittal? (P. 213.)

Attempt made by one of the greatest monarchs of Europe to equalize the local peculiarities of

It had been found impossible for the power of one of the most absolute princes in Europe (K. of

their separate provinces—in which the Agent fell a victim

France) directed by the wisdom of one of the most enlightened and patriotic Ministers (M^r Neckar), etc. (P. 219.)

M^r Pinckney¹ is of opinion that the first branch ought to be appointed in such manner as the legislatures shall direct —

Impracticable for general legislature to decide contested elections —

V. NOTES FOR JUNE 20, 1787.

M^r Lansing — Resolved that the powers of legislation ought to be vested in the United States in Congress — — — — —

— If our plan be not adopted it will produce those mischiefs which we are sent to obviate —

Principles of system —

Equality of Representation —

Dependence of members of

Congress on States —

So long as state distinctions exist state prejudices will operate whether election be by *states* or *people* —

— If no interest to *oppress* no need of *apportionment* —

— Virginia 16 — Delaware 1 —

— Will General Government have leisure to examine state laws — ?

— Will G Government have the necessary information ?

— Will states agree to surrender ?

— Let us meet public opinion and hope the progress of sentiment will make future arrangements —

— Would like my [Hamilton's] system if it could be established System without example —

M^r Mason — Objection to granting power to Congress arose from their constitution.

M^r Lansing . . . moved . . . “that the powers of Legislation be vested in the U. States in Congress.” (P. 227.)

If it were true that such a uniformity of interests existed among the States, there was equal safety for all of them, whether the representation remained as heretofore, or were proportioned as now proposed. (P. 228.)

Is it conceivable that there will be leisure for such a task? (P. 229.)

Will the members of the General Legislature be competent Judges? (*Ibid.*)

¹ This note is on the same sheet as the notes for June 19, but has not been identified as belonging to that date.

Sword and purse in one body—

Two principles in which *America* are unanimous

1 attachment to Republican government

2 — to two branches of legislature —

— Military *force* and *liberty* incompatible —

— Will people maintain a standing army? —

— Will endeavour to preserve state governments and draw lines — trusting to posterity to amend —

M^r Martin — General Government originally formed for the preservation of state governments —

Objection to giving power to Congress has originated with the legislatures —

10 of the states interested in an equal voice —

Real motive was an opinion that there ought to be distinct governments and not a general government —

If we should form a general government twould break to pieces — — —

— For common safety instituted a General gover[n]ment —

Jealousy of power the motive —

People have delegated all their authority to state governments —

Caution necessary to both systems —

Requisitions necessary upon one system as upon another —

In their *system* made requisitions necessary in the first instance but left Congress in the

Is it to be thought that the people of America . . . will surrender both the sword and the purse, to the same body . . . ? (Pp. 230–231.)

In two points he was sure it was well settled. 1. in an attachment to Republican Government.

2. in an attachment to more than one branch in the Legislature. (P. 231.)

The most jarring elements of Nature . . . are not more incompatible that[n] such a mixture of civil liberty and military execution. (P. 232.)

See pp. 232–233.

Gen^l Gov^t . . . was instituted for the purpose of that support [of the State Gov^t]. (P. 233.)

. . . it was the Legislatures not the people who refused to enlarge their powers. (*Ibid.*)

. . . otherwise ten of the States must always have been ready, to place further confidence in Cong^t. (*Ibid.*)

. . . people of America preferred the establishment of themselves into thirteen separate sovereignties instead of incorporating themselves into one. (*Ibid.*)

See pp. 233–234.

. . . people of the States having already vested their powers in their respective Legislatures, etc. (P. 234.)

second instance to assess themselves —

Judicial tribunals in the different states would become odious — — —

If we always to make a change shall be always in a state of infancy —

~~the~~ States will not be disposed hereafter to strengthen — the general government.

M^r Sherman — Confederacy carried us through the war — —

Non compliances of States owing to various embarrassments

Why should state legislatures be unfriendly?

State governments will always have the confidence and government of the people: if they cannot be conciliated no efficacious government can be established.

Sense of all states that one branch is *sufficient* —

If consolidated all treaties will be void.

State governments more fit for local legislation customs habits etc

. . . would be viewed with a jealousy inconsistent with its usefulness. (*Ibid.*)

Cong^s carried us thro' the war. (*Ibid.*)

. . . much might be said in apology for the failure . . . to comply with the Confederation. (P. 235.)

. . . saw no reason why the State Legislatures should be unfriendly. (*Ibid.*)

In none of the ratifications is the want of two branches noticed or complained of. (P. 236.)

To consolidate the States . . . would dissolve our treaties. (*Ibid.*)

Each State like each individual had its peculiar habits usages and manners. (*Ibid.*)

VI. NOTES, PROBABLY FOR DEBATE OF JUNE 26, 1787.

I Every government ought to have the means of self preservation

II — Combinations of a few large states might subvert

II — Could not be abused without a revolt

II Different genius of the states and different composition of the body

NOTE. Senate could not desire [?] to promote such a class

III Uniformity in the time of elections —

Objects of a Senate

To afford a double security against Faction in the house of representatives

Duration of the Senate necessary to its Firmness

Information

sense of national character

Responsibility